D.) AMENDMENTS TO THE DRAWINGS

None.

E.) REMARKS

This Response is filed in response to the Office Action dated June 1, 2005.

Upon entry of this Response, Claims 1-20 will be pending in the Application.

Preliminarily, Applicant notes that rewritten and amended Paragraph [0058] is submitted herewith. This amendment is merely to correct a typographical error in the original application, i.e., deletes the word "of" before "all" in the second line, and does not introduce any new matter to the specification.

In the outstanding Office Action the Examiner rejected Claims 1, 2, 9, 10 and 17 under 35 U.S.C. 102(a) as being anticipated by the RiskTrak Software Product, and rejected Claims 3-8, 11-16 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over RiskTrak in view of Link.

Claim Rejections under 35 U.S.C. § 102

In Paragraph 3 of the Office Action, the Examiner rejected Claims 1, 2, 9, 10 and 17 under 35 U.S.C. 102(a) as being anticipated by RiskTrak Software Product as disclosed in the following documents:

> "RiskTrak Project Risk Management Software", March 6, 2000, pp.1-2, hereafter referred to as "Reference U1".
>
> "Features and Benefits of RiskTrak Risk Management Software", November 4, 1999, pp.1-2, hereafter referred to as "Reference V1".
>
> "RiskTrak Risk Management Software for DoD Program Management and Program Management and Earned Value", October 7, 2000, pp. 1-5, hereafter referred to as "Reference W1".
>
> "RiskTrak is an Integrated Tool for the Management of Cost, Schedule & Technical Risk", November 21, 2000, pp.1-5, hereafter referred to as "Reference X1".

With respect to claim 1, the Examiner stated that RiskTrak discloses:

> **defining impact criteria for all risks of a project**, Reference X1 p. 2 paragraph 3 line 2-6, impact criteria for all and any project risk can be defined during project setup based on weight factors and probabilities

identifying a plurality of risks associated with the project; Reference Xl p. 2 paragraph 2 line 1-3, a plurality of risks can be identified and structured according to project planning methodology, e.g., WBS or other.

storing, in a database, risk information on at least one risk of the plurality of risks, Reference V1 p. 1 paragraph 4 line 1, all risk information can be stored in any ODBC-relational database.

assessing at least one risk of the plurality of risks using the defined impact criteria; Reference W1 p. 2 paragraph 6 line 1-2, RiskTrak provides for continuous risk assessment based on impact criteria defined above during project setup.

preparing at least one abatement corresponding to at least one risk of the plurality of risks; Reference W1 p. 2 paragraph 5 line 6, mitigation (i.e. abatement), is prepared for each program risk.

storing, in the database, abatement information on the at least one abatement, Reference W1 p. 2 paragraph 8 line 1-2, all project risk information, including abatement information is stored in the RiskTrak database.

monitoring the plurality of risks associated with the project as the project is completed; Reference W1 p. 2 paragraph 6 line 1-2, RiskTrak provides continuous monitoring of risks and the associated mitigation (i.e. abatement) plans during the life of the project. Reference W1 p. 2 paragraph 8 line 1-2, RiskTrak can be used throughout the life of a program for risk management.

updating the risk information and the abatement information in the database as the project is completed; and

Reference X1 p. 2 paragraph 5, complete visibility to all program or project risks are provided throughout the life of the project. Reference V1 p. 1 paragraph 2 line 1-2, Risk and Mitigation (i.e. abatement) information can be updated to the database in real time, 24 hours a day, during the entire length of the project, including as the project is completed.

repeating the steps of monitoring the plurality of risks and updating the risk information and the abatement information in the database until each risk of the plurality of risks is indicated as finished.

Reference V1 p. 1 paragraph 2 line 1-2, Risk and Mitigation (i.e. abatement) information can be updated to the database continuously during the entire length of the project, from start to finish. Reference W1 p. 2 paragraph 6 line 1-2, risks can be continuously assessed and monitored throughout the life of a project — this is a DoD requirement met by RiskTrak.

Regarding Claim 2, the Examiner stated:

RiskTrak discloses: **automatically generating a report having risk information and abatement information from the database.**

Reference XI p. 3 paragraph 6 line 1-3, risk management and contingency plans are automatically generated from RiskTrak's database.

Reference V1 page 1 paragraph 5 line 1-4, project status reports are available with a single mouse click. These reports include risk and abatement information.

With respect to Claims 9 and 10, the Examiner stated: "Claims 9 and 10 recite similar limitations as those recited in Claims 1 and 2 and are therefore rejected under the same rationale."

Regarding Claim 17, the Examiner stated:

RiskTrak discloses: **adding an additional risk to the plurality of risks for the project;**

Reference XI Page 4 paragraph 4 line 3, new risks can be entered immediately upon receipt of new information,

Reference W1 Page 3 paragraph 4 line 1-2, an unlimited number of risks can be entered into the database.

adding an additional abatement corresponding to at least one risk of the plurality of risks;

Reference XI page 2 paragraph 7 line 1-5, project mitigations (i.e. abatements) corresponding to project risks can be added to a project baseline through a drag and drop interface.

removing a risk from the plurality of risks for the project; and

Reference XI page 4 paragraph 5 line 1-3, changes to risks for the project are updated in real time, This includes removing a risk due to changes in risk where the risk is eliminated, either due to other external changes or the effects of a mitigation (i.e. abatement) plan.

removing an abatement corresponding to at least one risk of the plurality of risks.

Reference XI page 4 paragraph 5 line 1-3, changes to mitigation (i.e. abatement) for the project are updated in real time. This includes removing a mitigation due to it being effective in eliminating a risk.

For clarity, Applicants have prepared the following Table 1 including the Examiner's analysis and the actual language from the cited reference(s), for the rejected claim(s):

TABLE 1
EXAMINER'S ANALYSIS COMPARISON CHART

Item	Claim 1 Examiner's Analysis	Actual Reference
1	**defining impact criteria for all risks of a project,** Reference Xl page 2 paragraph 3 line 2-6, impact criteria for all and any project risk can be defined during project setup based on weight factors and probabilities	"Identify EVMS risk that you wish to analyze, report and manage. The project Setup feature lets you assign weight factors, probability, cost, duration, classification, phases, target resolution date, status, assignees." Reference Xl p. 2 par. 3 line 2-6
2	**identifying a plurality of risks associated with the project;** Reference Xl page 2 paragraph 2 line 1-3, a plurality of risks can be identified and structured according to project planning methodology, e.g., WBS or other."	"With RiskTrak you can structure baseline risks in a similar fashion to your WBS or methodology. Reference Xl p. 2 par. 2 line 1-3
3	**storing, in a database, risk information on at least one risk of the plurality of risks,** Reference V1 page 1 paragraph 4 line 1, all risk information can be stored in any ODBC-relational database.	"RiskTrak allows you to exchange data with any ODBC-relational database (i.e., Microsoft Access). You can import your current Work Breakdown Structure or an entire project...MPX ... The Import Engine feature for *.CSV files allows you to visually map fields from Microsoft Excel or other database structures and spreadsheets into RiskTrak fields." Reference V1 p. 1 par. 4 line 1
4	**assessing at least one risk of the plurality of risks using the defined impact criteria;** Reference W1 page 2 paragraph 6 line 1-2, RiskTrak provides for continuous risk assessment based on impact criteria defined above during project setup.	"RiskTrak allows for continuous risk assessment and has the ability to generate, analyze and monitor mitigation and/or contingency plans for specific areas of risk." Reference W1 p. 2 par. 6 line 1-2
5	**preparing at least one abatement corresponding to at least one risk of the plurality of risks;** Reference W1 page 2 paragraph 5 line 6, mitigation (i.e. abatement), is prepared for each program risk.	"Attach additional files to each program risk and mitigation element." Reference W1, p.2, par. 5, line 6 Attaching additional files is not equivalent to preparing at least one abatement corresponding to

		at least one risk of the plurality of risks. Therefore, the reference cited by the examiner does not teach the claimed element.
6	**storing, in the database, abatement information on the at least one abatement,** Reference W1 page 2 paragraph 8 line 1-2, all project risk information, including abatement information is stored in the RiskTrak database.	"As the RiskTrak project database continually presents up-to-the-minute data, it can be used by the PM throughout the program . . .to refine these objectives and thresholds where Risk Reduction and a careful assessment of risks are important criteria Reference W1 p. 2 par. 8 line 1-2 [including lines 3 & 4 excluded by the Examiner].
7	**monitoring the plurality of risks associated with the project as the project is completed;** Reference W1 page 2 paragraph 6 line 1-2, RiskTrak provides continuous monitoring of risks and the associated mitigation (i.e. abatement) plans during the life of the project. Reference W1 page 2 paragraph 8 line 1-2, RiskTrak can be used throughout the life of a program for risk management.	Reference W1 page 2 paragraph 6 line 1-2 states as follows: "RiskTrak allows for continuous risk assessment and has the ability to generate, analyze and monitor mitigation and/or contingency plans for specific areas of risk."
8	**updating the risk information and the abatement information in the database as the project is completed; and** Reference X1 page 2 paragraph 5, complete visibility to all program or project risks are provided throughout the life of the project. Reference V1 page 1 paragraph 2 line 1-2, Risk and Mitigation (i.e. abatement) information can be updated to the database in real time, 24 hours a day, during the entire length of the project, including as the project is completed.	"With RiskTrak, you have complete visibility to EVMS cost, schedule and technical risks throughout the duration of the program or project." Reference X1 p. 2 par. 5 "RiskTrak's Risk Editor and Mitigation Editor allow your team members to update risk information and test multiple mitigation strategies 24 hours a day in REAL TIME . . . " Reference V1 p. 1 par. 2 line 1-2
9	**repeating the steps of monitoring the plurality of risks and updating the risk information and the abatement information in the database until each risk of the plurality of risks is indicated as finished.** Reference V1 page 1 paragraph 2 line 1-2, Risk and Mitigation (i.e. abatement) information can be updated to the database continuously during the	"RiskTrak's Risk Editor and Mitigation Editor allow your team members to update risk information and test multiple mitigation strategies 24 hours a day in REAL TIME . . . " Reference V1 p. 1 par. 2 line 1-2

	entire length of the project, from start to finish. Reference W1 page 2 paragraph 6 line 1-2, risks can be continuously assessed and monitored throughout the life of a project — this is a DoD requirement met by RiskTrak.	
	Claim 2 Examiner's Analysis	
10	**automatically generating a report having risk Information and abatement information from the database.** Reference Xl page 3 paragraph 6 line 1-3, risk management and contingency plans are automatically generated from RiskTrak's database. Reference VI page 1 paragraph 5 line 1-4, project status reports are available with a single mouse click. These reports include risk and abatement information.	"RiskTrak also automatically generates risk management/ contingency plans with up-to-the-minute data." Reference X1, p.3 par. 6, line 1-3 "RiskTrak's SQL engine enables you to query, sort, extract and report up-to-the-minute data from projects and create ad-hoc reports. Top-level graphical charts of a project's current status are available with a single mouse click. RiskTrak also generates risk management reports/ contingency plans at will." Reference V1, p.1, par. 5 line 1-4
	Claim 17 Examiner's Analysis	
11	**adding an additional risk to the plurality of risks for the project;** Reference Xl Page 4 paragraph 4 line 3, new risks can be entered immediately upon receipt of new information, Reference W1 Page 3 paragraph 4 line 1-2, an unlimited number of risks can be entered into the database. **adding an additional abatement corresponding to at least one risk of the plurality of risks;** Reference Xl page 2 paragraph 7 line 1-5, project mitigations (i.e. abatements) corresponding to project risks can be added to a project baseline through a drag and drop interface. **removing a risk from the plurality of risks for the project; and** Reference Xl page 4 paragraph 5 line 1-3, changes to risks for the project are updated in real time, This includes removing a risk due to changes in risk where the risk is eliminated, either due to other external changes or the effects of a mitigation (i.e. abatement) plan. **removing an abatement corresponding to at least**	"Enter new risks immediately upon receipt of new information." Reference X1,p.4, par.4 line 1-2 "RiskTrak allows a PM to enter unlimited numbers of his/her own risks into a database, export and import data from any ODBC-compliant database, and attach files to project mitigations." Reference W1 p.3 par. 4 line 1-2 "You can easily create a permanent record of your EVMS risks and mitigations at any point throughout a project, using Windows-like "drag & drop" interface. Reference X1 p.2 par.7 line 1-5 "Changes to risks and mitigation are incorporated in Real Time. Effects are recorded immediately."

	one risk of the plurality of risks. Reference X1 page 4 paragraph 5 line 1-3, changes to mitigation (i.e. abatement) for the project are updated in real time. This includes removing a mitigation due to it being effective in eliminating a risk.	Reference X1 page 4 paragraph 5 line 1-3,

Applicants respectfully traverse the rejection of claims 1, 2, 9, 10 and 17 under 35 U.S.C. §102(a). The Examiner cited four different Internet documents published at four different times - March 6, 2000 (Reference U1), November 4, 1999 (Reference V1), October 7, 2000 (Reference W1) and November 21, 2000 (Reference X1), as though they comprise a single prior art reference. While all of the References U1 to X1 appear to be associated with the same product and the same website, the References are separate documents for purposes of prior art references, and, as the Examiner correctly pointed out in the Office Action, none of the RiskTrak References - U1 through X1- cited by the Examiner contains all of the elements of any of the rejected claims.

With respect to Item No. 2 in Table 1, Reference X1 states "With RiskTrak you can structure baseline risks in a similar fashion to your WBS or methodology." This is different from the recited claim element of "identifying a plurality of risks associated with the project".

With respect to Item No. 3 in Table 1, Reference V1 states that RiskTrak permits the user to exchange data with any ODBC-relational database (i.e., Microsoft Access), import current Work Breakdown Structure on an entire project, and map fields from Microsoft Excel or other database structures and spreadsheets into RiskTrak fields. Importing and exchanging data is functionally different from storing the data. The first line of the cited reference passage (which was not included in the Examiner's remarks) indicates that RiskTrak "Import Projects Directly from Popular PM Software", indicating programs other than RiskTrak store the data, and RiskTrak is simply importing that stored data from other Project Management programs for report generation, and mapping data fields to correspond to other proprietary database systems. Therefore, the RiskTrak program itself does not teach storing, in a database, risk information or abatement information, as recited in Claim 1.

Regarding Item No. 4 in Table 1, Reference W1 states that RiskTrak allows for continuous risk assessment and has the ability to generate, analyze and monitor mitigation and/or contingency plans for specific areas of risk. Reference W1 does not associate "assessing risk" with "using defined impact criteria", as recited in Claim 1.

Regarding Item No. 5 in Table 1, Reference W1, states: "Attach additional files to each program risk and mitigation element." Attaching additional files does not equate to "preparing at least one abatement corresponding to at least one risk of the plurality of risks" as recited in Claim 1 because the attached file may not be an abatement, and if it is an abatement, there is nothing that teaches that the abatement was prepared in response to a risk. Therefore, the reference cited by the examiner does not teach the claimed element in Item No. 5.

Regarding Item No. 6 in Table 1, Reference W1 states that the RiskTrak project database continually presents up-to-the-minute data, it can be used to refine these objectives and thresholds where Risk Reduction and a careful assessment of risks are important criteria. Reference W1 does not teach storing abatement information on the abatement as recited in Claim 1. To the contrary, the cited passage does not even mention abatement, but merely refers to refining objectives and thresholds where risk reduction and careful assessment are important criteria.

Regarding Item No. 8 in Table 1, Reference X1 discloses "complete visibility to EVMS cost, schedule and technical risks throughout the duration of the program or project." Complete visibility, as described in Reference X1, does not disclose the claim element "updating the risk and abatement information in a database as project is completed" as recited in Claim 1.

Regarding Item No. 9 in Table 1, Reference V1 states as follows "RiskTrak's Risk Editor and Mitigation Editor allow your team members to update risk information and test multiple mitigation strategies 24 hours a day in REAL TIME. " Reference V1 does not teach the claim element "repeating the steps . . . until each risk is indicated as finished" as recited in Claim 1, as there is no teaching that all risks are addressed.

Applicants have amended Claim 1 in order to clarify Applicants position with respect to Item 9, that all risks are addressed. The amended claim recites "until each risk of the plurality of risks has a corresponding completed abatement and is indicated as finished." Support may be found in the specification for this amendment at paragraph 34, lines 3-4, "i.e., the abatement plan for each of the risks has been completed." Applicants submit that this limitation further distinguishes present invention, as nothing in RiskTrak suggests that updating risk information require that the abatement corresponding to each risk must be completed and the risk indicated as finished.

With respect to Claim 2, Claim 2 depends from Claim 1, which Applicants have demonstrated is not anticipated by the prior art cited by the Examiner. As the Examiner correctly noted, Claims 9 and 10 recite similar limitations as Claims 1 and 2, and are also not anticipated for the same reasons as set forth above. Claim 9 has also been amended to be consistent with Claim 1, to include the limitation "until each risk of the plurality of risks has a corresponding completed abatement and is indicated as finished."

Regarding Claim 17, the references X1 and W1 disclose entering new risks immediately upon receipt of new information; allowing a user to enter unlimited numbers risks into a database, export and import data from any ODBC-compliant database, and attaching files to project mitigations. Also, creating a permanent record of EVMS risks and mitigations at any point throughout a project. As shown in Table 1, item 12, the References X1 and W1 do not disclose "adding an additional abatement corresponding to at least one risk of the plurality of risks, removing a risk from the plurality of risks for the project; and removing an abatement corresponding to at least one risk of the plurality of risks" as recited in Claim 17.

The examiner is reminded that "'[a] Claim is anticipated only if each and every element as set forth in the Claim is found, either expressly or inherently described, in a single prior art reference.' Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)." See Manual of Patent Examining Procedure, 8th Edition (MPEP), Section 2131.

In addition, "'[t]he identical invention must be shown in as complete detail as is contained in the ... claim.' Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)." See MPEP, Section 2131.

For the reasons set forth above, Applicants submit that Claims 1 & 9, as amended, and Claim 2, 10 and 17 are not anticipated by the references cited by the Examiner. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim Rejections -35 USC 103

In Paragraph 5 of the Office Action, the Examiner rejected Claims 3-8, 11-16 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over RiskTrak in view of Link, citing Link, Jo Lee

Loveland; Barbour, Rick; Krum, Al; Neitzel, August; Rollout and Installation of Risk Management at the IMINT Directorate, National Reconnaissance.

Regarding Claim 3, the Examiner stated:

RiskTrak teaches all the limitations of Claim 2 above, and also teaches: **providing additional risk information and abatement information from the database.** Reference X1 page 3 paragraph 6 line 1-3, risk management and contingency plans (i.e. contingency plans are abatement information) are provided from RiskTrak's database.

RiskTrak does not teach: **wherein the report is a waterfall chart and the step of monitoring the plurality of risks further comprises a step of providing additional risk information and abatement information from the database in response to a selection of a point on the waterfall chart.**

Link teaches: **wherein the report is a waterfall chart and the step of monitoring the plurality of risks further comprises a step of providing additional risk information and abatement information in response to a selection of a point on the waterfall chart.**

Page 185, this is a waterfall chart used to monitor risk mitigation (i.e. abatement) monitoring

Page 184 line 7, links are provided to return users to related areas; these links would include the selection of a point on the waterfall chart. Related areas would provide additional risk and abatement information because the waterfall chart is a graph of project management plans to abate and mitigate risks in the future.

Link teaches the use of the waterfall chart promotes efficiency in project reviews and in developing a broad system understanding (Page 66 paragraph 5.2.3.4 line 1-4). This is an important consideration when applying risk management to complex projects where the plethora of reporting detail makes it difficult to understand the larger implications of what is occurring in the project.

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies, to include providing a waterfall chart and additional risk and abatement information in response to a selection of a point on the waterfall chart, as taught by Link, because it would improve the efficiency in conducting a risk management review, as taught by Link.

Regarding Claim 4, the Examiner stated:

RiskTrak teaches all the limitations of Claim 1 above, but does not teach **wherein the step of defining impact criteria further comprises a step of defining impact criteria for at least one issue selected from the group consisting of technical issues, scheduling issues and cost issues.**

Link teaches: **wherein the step of defining impact criteria further comprises a step of defining impact criteria for at least one issue selected from the group consisting of technical issues, scheduling issues and cost issues.**

Page 66 Table 4 defines impact criteria for a system level risk consisting of technical issues (e.g. control of vehicle), scheduling and cost issues. The impact criteria are defined in terms of low, medium and high probabilities.

Link teaches that their approach for risk management would result in significant savings and technical reliability for mission-critical systems (Page 12 paragraph 2.3 line 1-4).

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies, to include defining impact criteria for technical, cost and scheduling issues, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link.

Regarding Claim 5, the Examiner stated:

RiskTrak teaches all the limitations of Claim 1 above and teaches:

Assigning of weight factors and probabilities in analyzing and managing risk (Reference XI page 2 paragraph 3 line 1-8).

RiskTrak does not teach:

providing a probability determination for at least one risk;

providing a technical impact determination for at least one risk;

providing a cost impact determination for at least one risk; and

providing a schedule impact determination for at least one risk.

Link teaches:

providing a probability determination for at least one risk;

Page 66 Table 4, probability determinations are provided in row 2 'Probability of Occurrence' for the risk outlined in this table.

providing a technical impact determination for at least one risk;

Page 66 Table 4, a technical impact determination is provided across various probability categories, e.g. ranging from lack of vehicle control to total vehicle control.

providing a cost impact determination for at least one risk; and

Page 66 Table 4, a cost impact is provided, e.g. ranging from >$5 million at a high risk probability to <$1 million for a low probability.

providing a schedule impact determination for at least one risk.

Page 66 Table 4, a schedule impact determination is provided that measures the schedule impacts at high, medium and low risk.

Link teaches that their approach for risk management would result in significant savings and technical reliability for mission-critical systems (Page 12 paragraph 2.3 line 1-4).

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies, to include providing a probability determination and a technical, cost and schedule impact determination, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link.

Regarding Claim 6, the Examiner stated:

RiskTrak teaches all the limitations of Claim 1 above but does not teach:

providing an estimated probability determination of the at least one abatement corresponding to at least one risk;

providing an estimated technical impact determination of the at least one abatement corresponding to at least one risk;

providing an estimated cost impact determination of the at least one abatement corresponding to at least one risk; and

providing an estimated schedule impact determination of the at least one abatement corresponding to at least one risk.

Link teaches that program and project risks can be attributed into technical, cost, schedule and probability factors (Page 66 Table 4).

Link also teaches: **providing an estimated probability determination of the at least one abatement corresponding to at least one risk;**

Page 66 Table 4 shows that risks are categorized in terms of probabilities, as does Page 138 Figure 3, which shows how various risks are anticipated to move in the probability/impact continuum.

Page 67 paragraph 5.2.3.7. "Waterfall Chart" provides an estimated probability determination of a mitigation strategy (i.e. abatement) corresponding to at least one risk. The waterfall chart tracks and forecasts the impact an abatement will have on risk.

providing an estimated technical impact determination of the at least one abatement corresponding to at least one risk;

Page 67 paragraph 5.2.3.7. "Waterfall Chart" provides an estimated probability determination of a mitigation strategy (i.e. abatement) corresponding to at least one risk, including technical impacts. The waterfall chart tracks and forecasts the impact an abatement will have on risk, including technical risks.

providing an estimated cost impact determination of the at least one abatement corresponding to at least one risk; and

Page 67 paragraph 5.2.3.7. "Waterfall Chart" provides an estimated probability determination of a mitigation strategy (i.e. abatement) corresponding to at least one risk, including cost impacts. The waterfall chart tracks and forecasts the impact an abatement will have on risk, including cost risks.

providing an estimated schedule impact determination of the at least one abatement corresponding to at least one risk.

Page 67 paragraph 5.2.3.7. "Waterfall Chart" provides an estimated probability determination of a mitigation strategy (i.e. abatement) corresponding to at least one risk, including schedule impacts. The waterfall chart tracks and forecasts the impact an abatement will have on risk, including schedule risks.

Link teaches that their approach for risk management would result in significant savings and technical reliability for mission-critical systems (Page 12 paragraph 2.3 line 1-4).

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies, to include providing abatement

effects upon probability, technical, cost and schedule risks, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link.

Regarding Claim 7, the Examiner stated that

RiskTrak teaches all the limitations of Claim 1 above but does not teach:

providing an actual probability determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement;

providing an actual technical impact determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement;

providing an actual cost impact determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement; and

providing an actual schedule issue impact determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement.

Link teaches **providing an actual probability determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement;**

Page 67 paragraph 5.2.3.7, waterfall charts provide a probability determination of an abatement corresponding to at least one risk based on the performance of the abatement. The waterfall charts track progress of a mitigation plan to see how they are effective or not in reducing a particular risk item.

Page 185 illustrates a waterfall chart and how the mitigation (i.e., abatement) program reduced the project risk

providing an actual technical impact determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement;

Page 67 paragraph 5.2.3.7, the waterfall chart is used to describe progress in reducing risk exposure (both in terms of impact and probability) from a mitigation (i.e. abatement) standpoint. Link teaches that program risks have three components, one of which is technical risk - see page 66 Table 4.

providing an actual cost impact determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement; and

Page 67 paragraph 5.2.3.7, the waterfall chart is used to describe progress in reducing risk exposure (both in terms of impact and probability) from a mitigation (i.e. abatement) standpoint. Link teaches that program risks have three components, one of which is cost risk— see page 66 Table 4.

providing an actual schedule issue impact determination of the at least one abatement corresponding to at least one risk based on actual performance of the at least one abatement

Page 67 paragraph 5.2.3.7, the waterfall chart is used to describe progress in reducing risk exposure (both in terms of impact and probability) from a mitigation (i.e. abatement) standpoint. Link teaches that program risks have three components, one of which is schedule risk— see page 66 Table 4.

Link teaches that their approach for risk management would result in significant savings and technical reliability for mission-critical systems (Page 12 paragraph 2.3 line 1-4).

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies, to include providing abatement effects upon probability, technical, cost and schedule risks, based upon abatement performance, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link.

Regarding Claim 8, the Examiner stated that:

RiskTrak teaches all the limitations of Claim 1 above and teaches:

Reference V1 p.1 par. 8, users utilize a database to store risk information.

Reference W1 p. 2 par. 5 line 3, uses an SQL engine to query application, thus RiskTrak utilizes a database since SQL is a database query language.

RiskTrak does not teach **displaying risk information from the database in a table; and displaying abatement information from the database in a table.**

Link teaches: **displaying risk information from the database in a table; and displaying abatement information from the database in a table.**

Page 66 Table 4, displays risk information into a table so that users can see the various categories, probabilities and impacts of project risks.

Page 187, the Risk Stoplight Chart displays abatement information in a table form.

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies and storing risk information in a database, to include providing risk and abatement information in a table, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link

The Examiner stated that Claims 11-16 recite similar limitations as those recited in Claims 3-8 and the claims were therefore rejected under the same rationale.

Regarding Claim 18, the Examiner stated:

RiskTrak teaches all the limitations in Claims 1 and 2 above except **for a server computer, said server computer comprising a storage device and a processor,**

Reference V1 p.1 par.1, RiskTrak runs on any type of network and software/hardware combination. This would include running on a network server where the server comprises a storage device and processor.

a risk management application to analyze and manage risks associated with a project,

Reference V1 p.1 par.1 line 2-3, RiskTrak provides an organization the capability to analyze and manage risks through communication and reporting.

said risk management application being stored in said storage device of said server computer, said risk management application further comprising:

Reference V1 p.1 par.1, Since RiskTrak runs on any hardware/software combination, this would include being stored in a storage device of a server computer running the software on a network.

a database, said database storing information relating to said project,

Reference X1 page 1 paragraph 4 line 1-6, RiskTrak stores information related to said project (in this case Earned Value information) in a relational database.

RiskTrak does not teach: **means for calculating a risk score for said assessed at least one risk, said risk score being based on said assessment;**

Official Notice is taken that the concept of providing a risk score for a project based on an assessment of that risk is old and well known in the art. An example of this type of methodology is the FMEA technique pioneered in the Apollo Program in the late 1960's. FMEA (Failure Mode Effect Analysis) is a scoring method based on the assessment of a risk's severity (how bad would a failure be?), frequency (how likely is the failure to happen), and detectability (how easily would we know a failure occurred?).

Each risk is assessed a score in these three categories based on a team's assessment for that particular risk. The three scores are multiplied together to come up with a Risk Priority Number (RPN). The RPN gives the team a quantitative measure of the risk to help prioritize it in comparison to other risks. So scoring the risk in such a manner as FMEA gives a project team a baseline in which to compare risks and decide which risk deserves greater attention. Risks are prioritized in order from greatest Risk Priority Number to the least. FMEA proved to be an effective way to focus on risks that provided the greatest threat to the Apollo mission.

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing a network based risk management software program, to include where that program provides a means for scoring risks based on assessment of those risks, as is known in the art, because it would provide a way for a project team to prioritize risks in order to eliminate the most potentially damaging risks to the project.

Regarding Claim 19, the Examiner stated:

RiskTrak teaches all the limitations of Claim 18 above and also teaches:

means for creating a new project, said means for creating a new project comprising means for providing project information, said project information being stored in said database,

Reference X1 page 2 paragraph 3 line 3-6, the project setup feature allows a new project to be created and project information to be entered.

Reference X1 page 1 paragraph 4 line 1-6, RiskTrak stores information related to projects in a relational database.

means for selecting a project from a plurality of projects;

Reference X1 page 3 paragraph 5 line 1-3. a project can be selected from a group of multiple projects for the purpose of providing reports.

Reference X1 page 4 paragraph 2 line 2, a project can be selected for the purpose of comparing it to other projects.

means for updating said project information stored in said database;

Reference X1 page 4 paragraph 4 line 3, new risk information can be updated into project information.

Reference X1 page 1 paragraph 4 line 4, RiskTrak uses a relational database to store project and risk information.

RiskTrak teaches using a database to store risk and project information and using SQL to query the database to obtain risk and project information (Reference V1 page 1 paragraph 5 line 1-3).

RiskTrak does not teach: **means for displaying a risk summary table, said risk summary table including risk information from said database; and**

means for displaying an abatement summary table, said abatement summary table including abatement information from said database.

Link teaches: **means for displaying a risk summary table, said risk summary table including risk information from said database; and**

Page 189, the risk summary sheet displays a risk summary table that contains risk information.

means for displaying an abatement summary table, said abatement summary table including abatement information from said database

Page 187, the risk stoplight chart contains abatement summary information in a table format.

Link teaches that their approach for risk management would result in significant savings and technical reliability for mission-critical systems (Page 12 paragraph 2.3 line 1-4).

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak regarding providing risk management tools and methodologies and storing risk information in a database, to include providing a risk summary table and abatement summary table, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link.

Regarding Claim 20, the Examiner stated that:

RiskTrak teaches all the limitations of Claim 18 above and also teaches: **at least one client computer is in communication with said server computer over an intranet;**

Reference V1 p.1 par. 1, RiskTrak runs on any type of network and software/hardware combination. This would include where at least one client computer is in communication with a server computer over an intranet.

said means for updating further comprises: means for adding risk information to said database on an additional risk to said plurality of risks;

Reference X1 Page 4 paragraph 4 line 3, new risks can be entered immediately upon receipt of new information.

Reference W1 Page 3 paragraph 4 line 1-2, an unlimited number of risks can be entered into the database

means for adding abatement information to said database on an additional abatement corresponding to at least one risk of said plurality of risks;

Reference X1 page 2 paragraph 7 line 1-5, project mitigations (i.e. abatements) corresponding to project risks can be added to a project baseline through a drag and drop interface

means for editing risk information in said database on a risk of said plurality of risks,

Reference V1 p.1 par. 2 line 1-3, risk information can be updated, which would include editing the risk information in RiskTrak's database.

means for editing abatement information in said database on an abatement corresponding to at least one risk of said plurality of risks;

Reference X1 page 4 paragraph 8 line 1-2, changes, including abatement information, can be made throughout the life of a project.

means for removing risk information from said database on a risk of said plurality of risks; and

Reference X1 page 4 paragraph 5 line 1-3, changes to risks for the project are updated in real time. This includes removing a risk information due to changes in risk where the risk is eliminated, either due to other external changes or the effects of a mitigation (i.e. abatement) plan

means for removing abatement information from said database on an abatement corresponding to at least one risk of said plurality of risks.

Reference X1 page 4 paragraph 5 line 1-3, changes to mitigation (i.e. abatement) for the project are updated in real time. This includes removing mitigation information as the mitigation over the course of a project.

RiskTrak also teaches a Microsoft Windows™ based application (Reference V1 p. 2 par. 4 line 1-3) that uses a database.

RiskTrak does not teach: **said risk management application is configured for execution in a web browser.**

Official Notice is taken that it is old and well known in the art of web-based applications to provide a web browser for interaction with a database. The use of a thin client (i.e. browser) to provide functionality over an intranet or Internet allows for the flexibility provided by distributed computing.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies and storing risk information in a database, to include providing a web browser to access a risk management application on a server, because it would provide the flexibility of distributed computing to allow a wide variety of users to easily access the risk management application over network.

RiskTrak does not teach: **said risk impact criteria comprises at least one criteria selected from the group consisting of technical impact criteria, schedule impact criteria and cost impact criteria; said means for providing an assessment comprises means for providing an impact assessment for said risk impact criteria, said impact assessment including a high impact assessment, a medium impact assessment and a low impact assessment, and**

Link teaches: **said risk impact criteria comprises at least one criteria selected from the group consisting of technical impact criteria, schedule impact criteria and cost impact criteria;**

Page 66 Table 4 defines risk impact criteria for a system level risk consisting of technical issues (e.g. control of vehicle), scheduling and cost issues. The impact criteria are defined in terms of low, medium and high probabilities.

said means for providing an assessment comprises means for providing an impact assessment for said risk impact criteria, said impact assessment including a high impact assessment, a medium impact assessment and a low impact assessment,

> Page 66 Table 4 defines impact criteria for a system level risk consisting of technical issues (e.g. control of vehicle), scheduling and cost issues. The impact criteria are defined in terms of low, medium and high assessments.
>
> Link teaches that their approach for risk management would result in significant savings and technical reliability for mission-critical systems (Page 12 paragraph 2.3 lines 1-4).

The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of RiskTrak, regarding providing risk management tools and methodologies, to include defining risk impact criteria and providing assessments for the risk impact criteria, as taught by Link, because it would provide significant cost savings during development and ensure technical reliability, as taught by Link.

The Applicants respectfully traverse the Examiner's rejection of Claims 3-8, 11-16 and 18-20 under 35 U.S.C. §103(a).

In the first instance, Claims 3-8 and Claims 11-16 depend from independent Claims 1 and 9, respectively, as currently amended. Applicants have set forth above the reasons that claims 1 and 9 should be allowed. Claims 3-8 and 11-16 should be allowed as depending from allowable independent claims 1 & 9.

Further, with respect to Claims 3-8, 11-16 and 18-20, the Examiner cited Link (p. 12, par. 1, lines 2-4) pervasively throughout the Office Action, as motivation for combining Link with the RiskTrak software. Upon review, however, the cited passage from Link states: "In deciding to focus initial improvement efforts on Risk Management, IMINT leadership based their decision on the underlying assumption of IMINT acquisition strategies – that significant savings and technical reliability for mission-critical systems would be achieved by advances in acquisition excellence." This does not suggest combining risk management tools and methodologies with defining impact criteria for technical costs and scheduling issues as taught by Link. In fact, the statement is at best a self-obvious statement, that "significant savings and technical reliability for mission-critical systems would be achieved by advances in acquisition excellence." There is nothing in this statement to suggest the motivation to combine the two

references, as the Examiner contends. The RiskTrak references are evidence of such non-motivation to combine, as Link was published in December, 1999. The opportunity existed for nearly a year – until November, 2000, the latest date referenced in a RiskTrak document – for RiskTrak to incorporate the alleged obvious improvements in its software, yet the authors of RiskTrak software did not do so. Therefore, as Applicants have demonstrated that there is no motivation or suggestion to combine Link with the RiskTrak references U1, V1, X1 and W1, any such combination obviousness rejection asserted by the Examiner should be withdrawn.

With respect to claim 3, Link does not indicate "selection of a point on the waterfall chart." Link states: "links are provided to return users to related areas." Link, p. 184, line 7. The Examiner assumed that the points on the waterfall chart are links, but there is nothing in Link that supports such an assumption.

With respect to claim 6, Figure 3 in Link does not refer to abatement probability determination. The description on page 138 of Link is as follows: "Figure 3 provides an example of our barometric chart. The curved lines that connect the impact and probability axes provide a quick visual assessment of the risk groupings." Contrary to the Examiner's contention, Figure 3 refers only to risk impact and probabilities, and does not suggest determination of abatement probability.

With respect to claim 18, the Examiner has taken Official Notice of the concept of providing a risk score for a project based on an assessment of that risk, as being old and well known in the art. The example cited is a Failure Mode Effect Analysis Technique (FMEA) allegedly pioneered in the Apollo Space Program. If the Examiner is referring to a document which sets forth the technique that the Examiner described in the Office Action, Applicants are entitled to an opportunity to review the prior art reference to determine whether such a technique does in fact disclose that which the Examiner contends is "old and well known."

MPEP §2144.03 states as follows:

> "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not

> capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. In re Ahlert, 424 F.2d at 1091, 165 USPQ at 420-21. See also In re Grose, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979)
>
> ...
>
> Any facts so noticed should be of notorious character and serve only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection." MPEP §2144.03.

The Examiner has not used the art of which Official Notice is taken for the mere purpose of "filling in the gaps", but rather, he has taken notice of a claim element for which there is evidently no available published art that discloses the claim element. In the example given, it is entirely possible that the technique described by the Examiner has no relation to the art set forth in the present invention. More importantly, if a document exists that supports the Examiner's contention, Applicants may find teachings in such a document that are inconsistent with the Examiner's stated position, or that disclose a non-analogous method. Further, without documentary evidence, the Examiner's statements are merely that – statements of the Examiner's own specific knowledge, which statements may be reconstruction taken from Applicants' disclosure. Applicants respectfully demand that the examiner produce authority for his statement taking official notice of providing a risk score for a project based on an assessment of that risk.

Further, even assuming that the Examiner can provide support for the concept of providing a risk score for a project based on an assessment of that risk, it is not shown by the Examiner that such a technique is used in association with a computer system as set forth in Claims 18-20. The recited limitation is means for calculating a risk score as a part of a risk management application. The Examiner's Official Notice, even if proper, does not teach the recited limitation, as engineers calculating and prioritizing a risk score is not the same as the risk management method as recited in Claim 18.

CONCLUSION

In view of the above, Applicants respectfully request reconsideration of the Application. As a result of the amendments and the remarks presented herein, Applicants respectfully submit that all the pending claims, namely claims 1-20, are neither anticipated nor rendered obvious by any of the cited references, and are in condition for allowance. As the claims are not anticipated by nor rendered obvious in view of the applied art, Applicants request allowance of claims 1-20,

in a timely manner. Should the Examiner have any questions with respect to any matter now of record, the Examiner is requested to contact the undersigned at the phone number listed below.

The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to Deposit Account No. 50-1059.

Respectfully submitted,

Dated: August 31, 2005

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